(3)

Supreme Court, U.S.
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Docket No. 96-312

IN THE

SUPREME COURT of the UNITED STATES

OCTOBER TERM, 1996

UNITED STATES OF AMERICA,
ex rel. WILLIAM DEVLIN,
ROD KODMAN,

Petitioners,

v.

STATE OF CALIFORNIA;
COUNTY OF MARIPOSA;
and TOM ARCHER,

Respondents.

On Petition for Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit

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REPLY TO BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED FOR REVIEW

I. Whether a non-opportunistic *qui tam* relator must qualify as an "original source" under subsection "B" of 31 U.S.C. §3730 (e)(4) to overcome the jurisdictional bar of that statute without a prior determination that the relator's action is barred because it is "based upon" publicly disclosed "allegations or transactions" as found in subsection "A" of that statute where the relator is the first person to disclose the allegations, transactions, and facts underlying his eventual suit to both the government and the media prior to filing suit and where the relator did not derive any allegation or information of fraud, in any part, from any publicly disclosed allegation, transaction or information.

II. Whether in the confidential arena of federal welfare funding claims by state and county governments, a non-opportunistic *qui tam* relator who learns of systematic county and state government welfare funding fraud through both verbal information and through examining documents from the same county social worker who willfully perpetrated the fraud on the Federal treasury has "direct" knowledge of the information on which his allegations are based so as to be an "original source" under the *qui tam* provisions of 31 U.S.C. §3730 (e)(4)(B) thus entitling the relator to relief from the jurisdictional bar of the statute where the relator also has "independent" knowledge of the information on which the allegations are based and where upon discovery, the relator is the first to report the past and continuing fraud to the government while not deriving any allegation of fraud, in any part, from any publicly disclosed allegation, transaction, or information prior to filing suit.

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REPLY TO OPPOSITION

I.

THE RELATORS' PETITION SHOULD BE GRANTED BECAUSE THE OPPOSITION USES STRUCTURALLY FALLACIOUS ARGUMENTS AND MISSTATEMENT OF THE RECORD TO SIMPLY RECAST THE QUESTIONS WHILE FAILING TO EXPLAIN WHY THE IMPORTANT ISSUES AND CONFLICTS AMONG THE CIRCUITS RAISED IN PETITIONERS' BRIEF DO NOT WARRANT REVIEW

A. The Opposition Fails To Address The Issues Raised In The Relators' Petition But, Instead, Illegitimately Recasts The Issues And Questions Presented.

The first of many efforts to recast the issues presented for this court's review is found at page "i" of the "JOINT BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI" (herein known as "Opposition"). Instead of addressing the questions presented by the relators, the Opposition has unilaterally recast the questions and, apparently, written the Opposition brief to oppose a question of its own making. The question presented by the Opposition is inadequate and does not reflect the unique facts of this case.

For instance, despite what the Opposition states in their proposed question presented, the relators believe they have direct and independent knowledge of the information on which the allegations are based." In fact, the lower court even specifically concluded that the relators possessed "independent knowledge". *United States ex rel. Devlin v. State of California,* 84 F.3d 358, 363 fn. 5 (9th Cir. 1996).

Furthermore, the Opposition question fails to raise the issue of Mr. Cotey's identity as a perpetrator of the fraud as well as the fact that the "allegations and transactions" of the fraud were known by the relators months before any story appeared in the newspaper or disclosed by anyone to any Mariposa Gazette

writer as noted in the declaration of Rod Kodman. App. B 1 The Opposition version of the facts and question may lead this court to believe that the relators learned of the fraud at the same time as the media. This is not so. The "allegations and transactions" were known to the relators in December of 1991.

B. The Opposition Illegitimately Presents Unsupported Assertions, Employs Fallacious "Strawman" Arguments, "Begs The Question", and Misinterprets The Cases In Arguing That No Conflict Exists Among The Circuits.

The Opposition argues that "the conflict relators identify is over the precise interpretation of the phrase "based upon" in subdivision (A) of section 3730(e)(4)." Opposition 6 Actually, the relators argue that two types of conflicts among the circuits exist regarding "based upon" analysis. The first is the two-step versus three-step construction of the statute. The second is interpreting the words "based upon".

As noted in the relators' petition, some circuit courts use a two-step and others a three-step construction of §3730(e)(4). This entire conflict among the circuits is addressed nowhere in the Opposition brief; it is simply ignored.

On the one hand, Courts such as the 4th Circuit in *United States ex. rel. Siller v. Becton Dickinson & Co.*, 21 F.3d 1339 (4th Cir. 1994) and the 11th Circuit in *Cooper v. Blue Cross and Blue Shield of Florida, Inc.*, 19 F.3d 562 (11th Cir. 1994) recognize a three-step construction of §3730(e)(4). Courts such as *Cooper* recognize that a "**. . . three part inquiry** determines if jurisdiction exists"; the second part states that if the allegations are publicly disclosed the inquiry shifts to whether the disclosure forms the "**the basis** of the plaintiff's suit; . . ." [emphasis added] *Cooper* , 565, n.4. *See also Williams*, 931 F.2d at 1500, n.12 and the 5th Circuit Court in *Federal Recovery Services, Inc., v. U.S.*, 72 F.3d 447 (5th Cir. 1995).

On the other hand, courts such as the D.C. Circuit in United *States ex rel. Springfield Terminal Ry. Co. v. Quinn,* 14 F.3d 645 (D.C. Cir. 1994), embrace a two-step approach which presumes that once allegations are publicly disclosed, any subsequent action is barred unless one qualifies as an original source. In describing the test, the *Springfield* Court stated that "[t]he 1986 *qui tam* amendments set up a **two part test** for determining jurisdiction." [emphasis added] *Springfield,* 651 *See also*, the 9th Circuit Court in the instant case as well as the 10th Circuit Court in *United States ex rel. Precision Co. v. Koch Industries, Inc.*, 971 F.2d 548 (10th Cir. 1992), *cert. denied,* 113 S. Ct. 1364 (1993) and the 2nd circuit in *United States ex rel. Doe v. John Doe Corp.,* 960 F.2d 318 (2d Cir. 1992)

The 2nd Circuit Courts in *United States ex rel. Kreindler & Kreindler v. United Technologies Corp.,* 985 F.2d 1148 (2d Cir.), *cert. denied,* 113 S. Ct. 2962 (1993) and *United States ex rel. Dick v. Long Island Lighting Co.,* 912 F.2d 13 (2d Cir. 1990) also note that no original source analysis is needed if the *qui tam* plaintiff first discloses the allegations on which his or her suit is based. See *Kreindler , supra,* 1158, and *Dick, supra,* 18.

Although completely ignored by the Opposition, such cases show a clear conflict among the Circuits regarding proper construction of the statute. For this reason alone, it is unclear why the Opposition states that there is "no conflict" among the circuits. Opposition at 7 The court opinions themselves, using *Siller* at 1348 as one example, recognize the conflict.

The second type of conflict among the Circuits centers on the meaning of the phrase "based upon". As noted in *Siller*, "based upon" is properly interpreted as meaning "derived from". Under the facts of this case, there is no showing that any allegation or transaction of the relators' complaint was derived from any published material. In fact, the allegations were discovered by the relators in 1991. More facts and specificity resulted from subsequent investigation. But, no new allegation or transaction resulted from any public disclosure. *See* App. B 1

Under the statute, the jurisdictional bar of subdivision A arises ONLY IF the relator bases a complaint on publicly disclosed "*allegations or transactions*". §3730(e)(4) *Siller* indicates that if a *qui tam* plaintiff does not "derive" its allegations or transactions from publicly disclosed sources, the action is not "based upon" such sources; therefore, the jurisdictional bar would not then apply. Other Circuits do not take *Siller's* approach

Therefore, the Opposition's statement that there is no conflict among the circuits regarding what "based upon" means is simply unsupported by the facts. Even among the Circuits that use a three-step approach, conflict exists as to the meaning of "based upon". *Siller*, for instance states that "based upon" means "derived from". *Siller* at 1349 However, although specifically rejected by *Siller*, the *Cooper* court embraced the "supported by" meaning of "based upon" used by the *Precision* court. *See* Cooper at 567 Such circuits clearly conflict

Instead of offering substantive arguments as to why the relators' cited conflicts do not exist, the Opposition embarks on a course of ascribing to the relators arguments the relators never made while disposing of its self-created "strawmen" whereby the Opposition tears down its self-created arguments while telling the court that its analysis shows the bankruptcy of the relators' position. For instance, the Opposition asserts that the relators "argue that *Siller* has been followed by other circuits in *Cooper . . . , Federal Recovery Services . . . , Dick . . . .*, and *Kreindler*" Opposition at 7 The relators never made such an argument. The Opposition perpetuates this mythical analysis by stating on six occasions that the relators argue that the above cases are the "progeny" of *Siller*. Opposition at 8-10 No such reference was ever made by the relators. Neither the word progeny nor its equivalent is found in the relator's petition anywhere.

The Opposition offers four cases that ostensibly prove that no conflict exists among the circuits, concluding that "*Siller* does not have the progeny ascribed to it by relators." Opposition at 8 Again, no such ascription was ever made.

The first case cited by the Opposition to prove that no conflict among the circuits exists is *Cooper*. However, as noted above, *Copper* and *Siller* conflict over the meaning of "based upon". Both *Siller* and *Cooper*, however, agree that a three-step construction of the statute is needed. The Opposition, in keeping with the issue it wants the court to decide, asserts that *Cooper* held that the "dispositive fact" in that case was that the *qui tam* plaintiff filed suit five weeks after a public disclosure. Opposition at 8 However, the dispositive fact in *Cooper* was actually that the plaintiff's suit "may have been at least partially based upon" publicly disclosed information. *Cooper* at 567-8 There is no allegation in the instant case that the relators' learned anything from any public disclosure. The relators knew of all of the allegations and transactions in December of 1991. *See* App. B 1 In any event, *Cooper* does not stand for the proposition that no conflict exists.

The second case cited by the Opposition to prove that no conflict among the circuits exists is *Federal Recovery Services*. The Opposition asserts that *Federal Recovery Services* held that a *qui tam* plaintiff was barred under the FCA because the action was filed more than a year after public disclosure of the allegations contained in plaintiff's complaint. Opposition at 8 However, at page 451 of the opinion, the court stated that the Plaintiff "conceded" that its action "was based on" a prior publicly disclosed and filed complaint. Therefore, the court used the "based upon" step of the three part construction of the statute to move to the original source analysis. The case does not, as alleged by the Opposition, stand for the automatic proposition that previous public disclosure triggers the bar. If anything, it appears to comport with the three-step analysis of *Siller* that is in conflict with other circuits as noted above.

The third case cited by the Opposition to prove that no conflict among the circuits exists is *Kreindler*. Although it is true that *Kreindler* cited *John Doe* with approval, it did so in the context of also citing the analysis of *Dick*, wherein the court stated that if the *qui tam* plaintiff was "a source" that

disclosed the information into the public sphere, the plaintiff would not be barred. *Kreindler* at 1158. The key issue in *Kreindler* was whether the bar applied only when the plaintiff's claim was solely or partially based on allegations or transactions previously publicly disclosed. In contrast, the relators in the instant case knew of all allegations and transactions underlying their complaint before any public disclosure occurred. *Kreindler* does not stand for the proposition that there is no conflict among the circuits as alleged by the Opposition. In fact, *Kreindler* stands for a mediating proposition along a spectrum of construction.

The fourth case cited by the Opposition to prove that no conflict among the circuits exists is *Dick*. After analyzing the facts of where the plaintiffs obtained their knowledge, the *Dick* court at 16 noted that "[i]n this case, there is no dispute that the appellants' suit is based upon publicly disclosed "allegations or transactions"". The plaintiff's original knowledge arose from news articles and a previously filed law suit. Therefore, the Opposition's assertion that this case proves there is no conflict among the circuits does not follow. If anything, the facts in *Dick* appear to show a three-step construction of the statute in conflict with cases noted above.

From the above cases, the Opposition concludes that no conflict among the Circuits exists. However, that conclusion apparently resulted from the Opposition's "strawman" arguments that do not discredit the conflicts noted in the petition for Writ Of Certiorari regarding the two-step versus three-step construction of the statute and the conflicting interpretations of the phrase "based upon" among the circuits.

C. The Relators' Action Would Not Have Been Barred In All Circuits As Asserted By The Opposition Who "Beg The Question" As To The Meaning of "Derived From" While Applying The Very Automatic Presumption The Relators Seek To Have Reviewed.

The Opposition asserts that "the general consensus among all other circuits is to preclude suits based in any part on

publicly disclosed information." Opposition at 10 However, that assertion is logically flawed in that it "begs the question" as to what "derived from" means in the context of *Siller*. Instead of giving *Siller* a fair meaning, the Opposition merely asserts its theme at page 10 that once allegations are publicly disclosed, the action is barred. The Opposition argues that "derived from" means "based upon" which means "previously publicly disclosed". *Siller* emphatically rejected such an interpretation while concluding that "based upon" means "derived from". *Siller* at 1348 Therefore, although the Opposition's interpretation eliminates some of the conflict among the circuits it does so by ignoring the clear language of opinions like *Siller* .

No evidence in the record indicates that the relators derived any allegation or transaction from any public disclosure. Therefore, under even the narrowest reading of *Siller*, for example, the relators in the case would have proceeded past the jurisdictional bar had it not been for the presumptive two-step analysis used by the Ninth Circuit in this case. This alone, rebuts the Opposition's assertion that no circuit would have allowed the relators to proceed.

Furthermore, the Opposition at page 11 argues that all circuits would bar the relators action under any "based upon" analysis - not because the allegations were previously publicly disclosed, but because the information was "derived from" a non-relator. No circuit anywhere has offered such an interpretation of subsection "A"; the statute does not even remotely suggest such an interpretation. The Opposition's statement in this regard is simply another effort to rewrite the statue and recast the arguments in this case.

The Opposition concludes that "based upon the facts of this case, relators' action would have been barred in all circuits no matter what interpretation of the phrase "based upon" as used in section 3730(e)(4) was current in that circuit." Opposition at 5-6 However, the only meaning offered by the Opposition of "derived from" is "previously publicly disclosed". Again, this appears to "beg the question" as to, for instance, the *Siller* court's analysis. Although the Opposition argues that the

perpetrator and relators together disclosed the allegations to the media, all allegations and transactions were previously known by the relators. *See* App. B 1 Thus, the relators did not derive their allegations or transactions from any public disclosure.

The Opposition also notes that the only way the Opposition can harmonize its view of the relator's reading of the statute is to insert the word "solely" before "based upon" in the statute. Opposition at 11 This is another "strawman" because the relators never made such an argument - an argument that does not even make sense on the facts of this case where the relators did not derive anything from any publicly disclosed information.

D. The Opposition Misstates The Record In Arguing That The Relators Did Not Raise The "Based Upon" Issue At The Ninth Circuit.

The Opposition asserts that the relators did not raise the "based upon" issue in the Ninth Circuit and, thus, waived their right to do so. This is not so.

Although the relators were acting in propria persona, they supplied supplemental authorities in advance of the oral argument, citing *Siller* as an important case. *See* App. A 1 *Siller* was decided after the original briefs were filed and upon its publication, the relators disclosed *Siller* to the court and opposing counsel. Furthermore , the relators devoted over 10 percent of their oral argument to the discussion of Siller and the "based upon" question. The court and opposing counsel were well aware of the arguments and authorities in this regard. Thus, the argument was not waived but was, in fact, raised at the Ninth orally and in writing.

II.

THE RELATORS' PETITION SHOULD BE GRANTED BECAUSE IT PRESENTS IMPORTANT ISSUES FOR REVIEW AND BECAUSE THE OPPOSITION'S CONCLUSION AS TO WHO POSSESSES "DIRECT" KNOWLEDGE OF FRAUD IN THIS CASE EXPOSES THE OPPOSITION'S

TRULY SKEWED VIEW OF CONGRESSIONAL INTENT BY POSITING THE PERPETRATOR OF THE FRAUD, COTEY, AS THE VERY "PARADIGM" OF WHO CONGRESS INTENDED TO BE A *QUI TAM* PLAINTIFF.

The Opposition argues that the relators in this case do not have independent knowledge of the fraud so as to qualify as an original source. Opposition at 16 & 18 However, the Ninth Circuit specifically noted that the relators possessed independent knowledge.

The Opposition also suggest by repeated use of the word"reward" that the relators are motivated by a "reward" in this case. The fact is that if the relators' information and the Mariposa Gazette article are correct, no funds have been returned to the federal treasury and a reward for ensuring such restitution is exactly what Congress intended. Tom Archer is quoted as saying that no funds were fraudulently obtained. Mr. Cotey states that he committed the practices alleged and that Mr. Archer instructed him to do so. The relators possess documents substantiating the allegations and transactions of fraud. As noted in the petition, in this unique arena of Social Welfare Services the *qui tam* plaintiffs in this case must be allowed to proceed to ensure the return of funds to the national treasury.

Against this argument, the Opposition asserts that Congress never intended the relators in this case to proceed because confidentiality statutes do not stop people from reporting fraud. However, the fact that Cotey's conscience impelled him to confess his wrongdoing does not mean that encouraging private action was not intended by Congress. It may well be illegal for some of the disclosures to have occurred in this case. However, it seems a long stretch to conclude that Congress expects others to implicate themselves, violate administrative rules, and criminal statutes to expose their own fraud in the Social welfare system. This is where *qui tam* plaintiffs such as in the instant case were intended to step in to help stop the loss of limited public resources.

The Opposition posits Mr. Cotey as the paradigm insider who Congress intended to bring a *qui tam* action in this case. Opposition at 17 The Opposition makes this argument even though Mr. Cotey was himself perpetrating the fraud. Therefore, the Opposition's argument is that Congress intended a government employee who deliberately bilks money from the national treasury for the benefit of his local agency is the paradigm person Congress intended to collect a reward for reporting his own fraudulent activities. Surely this is not what Congress intended to even remotely result from the statute let alone be the very paradigm of how the statute should operate. In fact, this interpretation would open the gates to knowledgeable but unscrupulous employees seeking a way to legally tap the national treasury.

In the instant case, such a rule would likely result in no government accountability for fraud. Mr. Cotey could potentially face charges for violating various statutes for reporting information from the confidential Welfare environment. Consequently, in that unique arena, such fraud would likely continue but for allowing some private *qui tam* involvement as outlined in the petition in this case.

CONCLUSION

For the foregoing reasons, the relators respectfully request this court to grant the petition for a Writ of Certiorari to the Ninth Circuit.

Respectfully submitted this 5th Day of October, 1996,

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UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA ex rel. WILLIAM DEVLIN, ROD KODMAN AND STANLEY H. SIDICANE, Plaintiffs-Appellants,	)	Case No. 93-16729
	)	D. C. # CIV-F-92-5086-REC
	)	(E. D. California)
vs.	)	ADDITIONAL CITATIONS OF RELEVANT DECISIONS RENDERED SINCE FILING OF LAST BRIEF
TOM ARCHER, COUNTY OF MARIPOSA, and STATE OF CALIFORNIA, Defendants-Appellees.	)	

Plaintiffs and Appellants submit the following additional citations of relevant decisions rendered since the filing of Plaintiffs/Appellants last brief for review by the United States Court of Appeals, Ninth Circuit in the above captioned matter. Said matter is scheduled for oral argument on March 15, 1995 at 9:00 a.m.:

(1) U.S. ex rel. Fine v. Chevron, U.S.A., Inc. 39 F.3d 957 (9th Cir. 1994)

(2) U.S. ex rel. Siller v. Becton Dickinson & Co. 21 F.3d 1339 (4th Cir. 1994)

(3) Wilshire Westwood Assoc. v. Atlantic Richfield, 881 F.2d 801 (9th Cir. 1989)

(4) Blum v. Stenson, 465 U.S. 886 (2nd Cir. 1989)

Dated: March 7, 1995

/s/ Rod Kodman
ROD KODMAN
Plaintiff/Appellant in Pro Per

PROOF OF SERVICE

I, the undersigned, hereby certify:

I am a citizen of the United States and a resident of the County of Fresno, State of California. I am over the age of eighteen (18). I am not a party to the within entitled action. My business address is: 1111 Fulton Mall, Suite 1000, Fresno, California 93721.

I am readily familiar with the business practice at my place of business for collection and processing of correspondence for mailing with the United States Postal Service. Correspondence so collected and processed is deposited with the United States Postal Service that same day in the ordinary course of business.

On March 7, 1995, at my place of business at Fresno, California, a copy of the attached document.

ADDITIONAL CITATIONS OF RELEVANT DECISIONS RENDERED SINCE THE FILING OF LAST BRIEF,

was placed for deposit in the United States Postal Service in a sealed envelope, with postage fully prepaid, addressed to :

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I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 7, 1995, at Fresno, California.

/s/ Elaine Harrison
ELAINE HARRISON

APPENDIX B

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Relators, in pro per

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, ex rel. WILLIAM DEVLIN, et al., Plaintiffs,	) CIVIL ACTION NO. CV-F-92-5086 REC
v.	) **DECLARATION OF ROD KODMAN**
TOM ARCHER, et al., Defendants.	)

Rod Kodman declares as follows:

1. I am one of the relators in the above captioned action.

2. In January of 1992, I was having problems with Child Protective Services in Merced County and as a result of my filing a petition to the Grand Jury, filing a claim for damages and testifying before the Merced County Grand Jury, articles appeared in the Merced Sun Star and Fresno Bee concerning my involvement with Child Protective Services.

3. On November 26, 1991 I received approximately thirty telephone calls from persons having similar problems with Child Protective Services in various counties. One such call on November 26, 1991 was from William Cotey who informed me that he had a CPS related problem in Madera and that he was a child protective worker in Mariposa County.

4. On December 12, 1991, the Fresno Bee published a follow up article mentioning my name. The following day,

William Cotey again contacted me and told me that he had falsified reports to increase his counties Federal funding and that he had done so on the orders of his superiors.

5. The next day, I informed William Devlin of this contact and requested Mr. Devlin to call Mr. Cotey and to meet with him to see if he had any information that would be of assistance to me in my problems with CPS. Some time within the next several days, Mr. Devlin informed me that he had met with Mr. Cotey and that Mr. Cotey had advised him that his superiors at CPS had requested their employees to falsify their case records and time sheets to increase the funds the county was receiving from the United States Government. Mr. Devlin also informed me that he had requested Mr. Cotey to put these facts in writing so that we could have verification that Cotey had made these statements.

6. On January 21, 1991 I received a letter from William Cotey outlining how he had been directed to falsify CPS records to increase Federal funding and that he had in fact do so. This letter stated that approximately a year and a half ago, Tom Archer, his superior, who was the unit supervisor of Social Services held a meeting of his employees including Cotey and told them how they could inflate the number of hours spent on their cases to increase their Federal funding. Sometime later, I was furnished with the names and social security numbers of persons whose cases he had falsified to increase the Federal funding for Mariposa County and other documentary proof of the fraud.

7. Beginning on December 18, 1991, I attempted to inform the Federal and California authorities of the fraud so that it could be investigated by the proper authorities. In each written contact, I transmitted the letter and material by Express Mail, Overnight Delivery which will insure that there is a record of the transmittal. The first such contact was made to U.S. Representative Gary Condit's Modesto Office on December 18, 1991. At that time, I spoke with the receptionist regarding the misappropriation of federal funds and conspiracy t defraud the Federal government. I requested that the receptionist have Congressman Condit's chief of staff Michael Lynch return my telephone call. My call was never returned.

8. Since I was not successful in having anyone in Congressman Condit's office return my telephone call, on

December 23, 1991 I personally went to the Congressman's Merced office and discussed the fraud with Diane Padilla, his field representative. I requested her to inform the Congressman of the information I had received from William Cotey and the way in which Mr. Cotey had defrauded the government. Ms. Padilla told me she would contact Mr. Lynch and have him call me. I never received a reply from Mr. Lynch.

9. On January 6, 1993 I telephone the Fresno office of the Federal Bureau of Investigation and discussed the information regarding the fraud with Agent Jim Hyndman and requested that he investigate by contacting William Cotey. I was told by Agent Hyndman that he would immediately contact Cotey and conduct an investigation.

10. After receiving documentation of the fraud from Mr. Cotey, on January 21, 1992 I hand delivered a copy of the Cotey documents to Margie, the receptionist in Congressman Condit's office. At this time, I got her to sign a receipt for the materials I turned over to her. A copy of the receipt is attached hereto.

11. On January 22, 1992, I hand delivered a copy of the documentation of the fraud received from Mr. Cotey to F.B.I. Agent Hyndman. He informed me that the F.B.I. was investigating the matter and would forward a report to Washington, D.C.

12. On January 22, 1992 I wrote Congressman Condit asking him to have an appropriate Federal agency initiate an audit of the fraud and for him to forward my information to the Attorney General of the United States. A copy of that letter is attached as an exhibit to this declaration.

13. On that same day (January 22, 1992) I wrote Governor Wilson regarding the fact that the fraud involved state as well as Federal funds and outlined the conspiracy to defraud the State of California. A copy of that letter is attached to this declaration.

14. On January 23, 1992, I again wrote Congressman Condit and made a formal request that he hand deliver a copy of my documentation of the fraud to Bob Wise, Chairman of the House Government Operations Subcommittee, the United States Inspector General and the U.S. General Accounting Office so that the fraud could be investigated. A copy of that letter is attached hereto.

15. On January 27, 1992, I wrote Representative Bob Wise directly including a copy of my allegations and documentary evidence. I specifically requested him to conduct a congressional investigation of the misappropriation of funds and fraud being perpetrated on the U.S. Government by the California Department of Human Services. A copy of that letter is attached hereto.

16. On February 3, 1992 I wrote Congressman John Doolittle, (Republican, California) outlining the fraud and giving him a copy of the documentation. I requested him to deliver copies of the documents to Congressman Wise and Dingle, the U.S. Inspector General, the General Accounting Office and the U.S. Department of Health and Human Services. A copy of that letter is attached hereto.

17. On February 3, 1992 I wrote Congressman John Dingle, Chairman of the House Subcommittee on Oversight and Investigation concerning the fraud. I had been informed that Congressman Dingle's committee had investigated the alleged false claims at Stanford University. I outlined the fraud and sent him a copy of the documentation. I requested him to undertake a congressional investigation and to deliver the information to the General Accounting Office and the Department of Health and Human Services. A copy of that letter is attached hereto.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

This 25th day of June, 1993

/s/ Rod Kodman
Rod Kodman